

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In Re Application of:)	
Fabio Giannetti, et al)	Confirmation No: 7474
)	
Serial No.: 10/650,638)	Group Art Unit: 2145
)	
Filed: August 28, 2003)	Examiner: Swearingen, Jeffrey R.
)	
For: Method and System for Content Authoring))	Atty. Docket No.: 300203301-2

APPEAL BRIEF UNDER 37 C.F.R. § 41.37

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Sir:

This Appeal Brief under 37 C.F.R. § 41.37 is submitted in support of the Notice of Appeal filed November 19, 2007, responding to the final Office Action mailed July 18, 2007.

It is not believed that extensions of time or fees are required to consider this Appeal Brief. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. §1.136(a), and any fees required therefor are hereby authorized to be charged to Deposit Account No. 08-2025.

I. Real Party in Interest

The real party in interest is Hewlett-Packard Development Company, LP, a limited partnership established under the laws of the State of Texas and having a principal place of business at 20555 S.H. 249 Houston, TX 77070, U.S.A. (hereinafter "HPDC"). HPDC is a Texas limited partnership and is a wholly-owned affiliate of Hewlett-Packard Company, a Delaware Corporation, headquartered in Palo Alto, CA. The general or managing partner of HPDC is HPQ Holdings, LLC.

II. Related Appeals and Interferences

There are no known related appeals or interferences that will affect or be affected by a decision in this Appeal.

III. Status of Claims

Claims 1-6, 18, 19, 23, and 24 stand finally rejected. No claims have been allowed. Claims 7-17 and 21 have been objected to and have not been examined on the merits. The rejections of claims 1-6, 18, 19, 23, and 24 are appealed.

IV. Status of Amendments

This application was originally filed on August 28, 2003, with twenty-seven (27) claims. In a Response filed May 24, 2007, Applicants amended claims 1-5 and 7-24 and canceled claims 25-27. In a Response filed September 18, 2007,

Applicants presented amendments for claims 9-14, 17, and 21 in response to objections stated in an outstanding response with regard to improper dependency. The amendments were not entered by the Examiner although the Examiner indicated that the amendments placed the claims in proper dependent form. The claims in the attached Claims Appendix (see below) reflect the present state of Applicants' claims.

V. Summary of Claimed Subject Matter

The claimed inventions are summarized below with reference numerals and references to the written description ("specification") and drawings. The subject matter described in the following appears in the original disclosure at least where indicated, and may further appear in other places within the original disclosure.

Embodiments according to independent claim 1 describe a method of authoring a document to be served for rendering on a plurality of classes of device. The method comprises defining at least two choices of content which may be styled for a first content portion of the document and defining at least two choices of content which may be styled for a second content portion of the document. Applicants' specification, page 13, lines 1-17. The method further comprises labelling the choices of content for a web page to indicate to a server (Figure 1, 2) approved combinations of content for the first content portion of the web page with content for the second content portion of the same web page, wherein the web page is produced for serving to a requesting user by

incorporating an approved combination of content for the first content portion of the web page and the second content portion of the same web page. Applicants' specification, page 13, lines 22-30; page 14, lines 4-8; and page 15, lines 8-21.

Embodiments according to independent claim 18 describe a system for authoring a document to be served for rendering on a plurality of classes of device. The system comprises a content defining tool for defining at least two choices of content which may be styled, for a first content portion of the document and at least two choices of content, which may be styled, for a second content portion of the document. Applicants' specification, page 7, lines 16-19 and page 13, lines 1-17. The system further comprises a labelling tool which permits an author to label the choices of content to indicate to a server allowable combinations of content for the first content portion with content for the second content portion of the same document. Applicants' specification, page 7, lines 20-22 and page 13, lines 22-30. The document is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the document and the second content portion of the same document. Applicants' specification, page 14, lines 4-8; and page 15, lines 8-21.

Embodiments according to independent claim 23 describe a data structure that is suitable for processing to produce a rendered document. Applicants' specification, page 8, lines 21-22. The data structure comprises a content defining section defining at least two choices of content for the document, which may be styled, for a first content portion of the document and at least two choices

of content, which may be styled, for a second content portion of the same document. Applicants' specification, page 7, lines 16-19 and page 13, lines 1-17. The data structure further defines a label section which includes labels corresponding to choices of content. Applicants' specification, page 10, lines 1-31 and page 13, lines 22-30. Each label indicates to a server (Figure 1, 2) an allowable combination of content for the first content portion with content for the second content portion of the same document, wherein the document is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the document and the second content portion of the same document. Applicants' specification, page 10, lines 1-31; page 14, lines 4-8; and page 15, lines 8-21.

VI. Grounds of Rejection to be Reviewed on Appeal

The following grounds of rejections are to be reviewed on appeal:

Claims 1-6, 18-19, and 23-24 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by *Brid* (U.S. Patent No. 6,772,144 B2).

Claims 20, 22, and 25-27 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Brid* in view of *Lachhwani* (U.S. Patent Application Publication No. 2002/0116418 A1).

VII. Arguments

A. Rejection of Claims under 35 U.S.C. § 102

Claims 1-6, 18-19, and 23-24 stand rejected under 35 U.S.C. § 102(e) as allegedly being anticipated by *Brid* (U.S. Patent No. 6,772,144 B2).

It is axiomatic that “[a]nticipation requires the disclosure in a single prior art reference of each element of the claim under consideration.” *W. L. Gore & Associates, Inc. v. Garlock, Inc.*, 721 F.2d 1540, 1554, 220 USPQ 303, 313 (Fed. Cir. 1983). Therefore, every claimed feature of the claimed subject matter must be represented in the applied reference to constitute a proper rejection under 35 U.S.C. § 102(e). In the present case, not every feature of the claimed subject matter is represented in the *Brid* reference. Applicants discuss the *Brid* reference and Applicants' claims in the following.

1. The *Brid* Reference

Brid describes a device-independent template which “defines how to display information” or may be regarded as a content structure. See col. 2, lines 38-63 and col. 3, lines 22-41. The device independent template is adapted for a particular device, and this is regarded as a device-specific template. In the examples of Fig. 4 and 5, the figures show how the device-specific template for Fig. 4 does not call for a chart to be displayed, where the device-specific template for Fig. 5 does. Each of the figures also show the same representations of the data that is common to both. Accordingly, *Brid* does not disclose different combinations of content for portions of a web page.

2. Applicants' Claim 1

As provided in claim 1, Applicants claim:

A method of authoring a document to be served for rendering on a plurality of classes of device comprising:

defining at least two choices of content which may be styled for a first content portion of the document and conveyed to the server;

defining at least two choices of content which may be styled for a second content portion of the document and conveyed to the server; and

labelling the choices of content for a web page to indicate to a server approved combinations of content for the first content portion of the web page with content for the second content portion of the same web page, wherein the web page is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the web page and the second content portion of the same web page.

Applicants respectfully submit that independent claim 1 is allowable for at least the reason that *Brid* does not disclose, teach, or suggest all of the claimed features above.

As previously mentioned, Fig. 4 and 5 of *Brid* show how the device-specific template for Fig. 4 does not call for a chart to be displayed, where the device-specific template for Fig. 5 does. Accordingly, a choice for content representative of the chart is not contained in Fig. 4. Further, the same representations of data is shown in Fig. 4 and Fig. 5 that are common to both. Therefore, a choice of content and labeling of approved combinations of content are not disclosed to be made in *Brid*. Accordingly, *Brid* fails to teach or suggest "labelling the choices of content for a web page to indicate to a server approved combinations of content for the first content portion of the web page with content

for the second content portion of the same web page, wherein the web page is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the web page and the second content portion of the same web page," as recited in claim 1.

In contrast, the claimed subject matter describes a document having a first content portion and a second content portion. For the first content portion, at least two choices of content (e.g., A and B) are defined which may be styled for the first content portion. Likewise, for the second content portion, at least two choices of content (e.g., X and Y) are defined which may be styled for the second content portion. Therefore, for a requesting device, an approved combination (e.g., (A, X); (A, Y); (B, X); (B, Y)) of content for the first portion and the second portion is served to the requesting device when the document or web page is produced.

However, in *Brid*, there are no choices of content present. For a first portion in *Brid*, either particular content (e.g., A) is shown or it is not shown. There is no choice to be made for a different representation of the content (e.g., B). For example, *Brid* does not disclose producing a web page by incorporating an approved combination of content for a first content portion and a second content portion, where there are multiple choices of content available to be used in the first content portion and there are multiple choices of content available to be used in the second content portion, where an approved combination of a choice from the first portion and a choice from the second portion is what is used in the produced document. In contrast, *Brid* describes adapting a layout or

template to a specific device implementation where some data elements may be omitted from the device-specific layout or template. Choices are not defined amongst alternative data elements that are representative of the same content.

In response to the statement in the final Office Action that *Brid* "does disclose labeling content choices approvable as to indicate to the server what choices of content from each portion of the web page are allowable for serving the entire web page (column 5, lines 54-67, with the defining of data elements to be displayed and the arranging of data elements on a layout seen as labeling an approved combination, since all of some of the content portions are served to the requesting user based on their display format," Applicants respectfully disagree and iterate that *Brid* fails to disclose at least "defining at least two choices of content which may be styled for a first content portion of the document and conveyed to the server and defining at least two choices of content which may be styled for a second content portion of the document and conveyed to the server," as recited in claim 1. As explained above, *Brid* omits content portions from documents for a device-specific layout and fails to define choices of content for a content portion of a document.

For at least these reasons, claim 1 is not anticipated by *Brid*. Therefore, the rejection of claim 1 should be overturned.

3. Applicants' Claims 2-6

Dependent claims 2-6 (which depend from independent claim 1) are allowable as a matter of law for at least the reason that the dependent claims contain all the features of allowable independent claim 1. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Additionally and notwithstanding the foregoing allowability of claims 2-6, these dependent claims recite further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record. Hence, there are other reasons why these dependent claims are allowable.

4. Applicants' Claim 18

As provided in claim 18, Applicants claim:

A system for authoring a document to be served for rendering on a plurality of classes of device comprising:

a content defining tool for defining at least two choices of content which may be styled, for a first content portion of the document and at least two choices of content, which may be styled, for a second content portion of the document; and

a labelling tool which permits an author to label the choices of content to indicate to a server allowable combinations of content for the first content portion with content for the second content portion of the same document, wherein the document is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the document and the second content portion of the same document.

Applicants respectfully submit that independent claim 18 is allowable for at least the reason that *Brid* does not disclose, teach, or suggest at least all of the claimed features above.

For example, *Brid* describes a device-independent template which "defines how to display information" or may be regarded as a content structure. See col. 2, lines 38-63 and col. 3, lines 22-41. The device independent template is adapted for a particular device, and this is regarded as a device-specific template. In the examples of Fig. 4 and 5, they show how the device-specific template for Fig. 4 does not call for a chart to be displayed, where the device-specific template for Fig. 5 does. Each of the figures shows the same representations of the data that is common to both. Accordingly, *Brid* fails to teach or suggest "a labelling tool which permits an author to label the choices of content to indicate to a server allowable combinations of content for the first content portion with content for the second content portion of the same document, wherein the document is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the document and the second content portion of the same document," as recited in claim 18.

In contrast, the claimed subject matter describes a document having a first content portion and a second content portion. For the first content portion, at least two choices of content are defined which may be styled for the first content portion. Likewise, for the second content portion, at least two choices of content are defined which may be styled for the second content portion. Therefore, for a requesting user, an approved combination of content for the first portion and the second portion is served to the requesting user when the document or web page is produced.

However, in *Brid*, there are no choices of content present. For example, *Brid* does not disclose producing a web page by incorporating an approved combination of content for a first content portion and a second content portion, where there are multiple choices of content available to be used in the first content portion and there are multiple choices of content available to be used in the second content portion, where an approved combination of a choice from the first portion and a choice from the second portion is what is used in the produced document. In contrast, *Brid* describes adapting a layout or template to a specific device implementation where some data elements may be omitted from the device-specific layout or template. Choices are not defined amongst alternative data elements that are representative of the same content.

In response to the statement in the final Office Action that *Brid* “does disclose labeling content choices approvable as to indicate to the server what choices of content from each portion of the web page are allowable for serving the entire web page (column 5, lines 54-67, with the defining of data elements to be displayed and the arranging of data elements on a layout seen as labeling an approved combination, since all of some of the content portions are served to the requesting user based on their display format,” Applicants respectfully disagree and iterate that *Brid* fails to disclose at least “a content defining tool for defining at least two choices of content which may be styled, for a first content portion of the document and at least two choices of content, which may be styled, for a second content portion of the document,” as recited in claim 18. As explained

above, *Brid* omits content portions from documents for a device-specific layout and fails to define choices of content for a content portion of a document.

For at least these reasons, claim 18 is not anticipated by *Brid*. Therefore, the rejection of claim 18 should be overturned.

5. Applicants' Claim 19

Dependent claim 19 (which depends from independent claim 18) is allowable as a matter of law for at least the reason that the dependent claim contains all the features of allowable independent claim 18. See *In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Additionally and notwithstanding the foregoing allowability of claim 19, the dependent claims recites further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record. Hence, there are other reasons why the dependent claim is allowable.

6. Applicants' Claim 23

As provided in claim 23, Applicants claim:

A data structure that is suitable for processing to produce a rendered document, the program comprising:

a content defining section defining at least two choices of content for the document, which may be styled, for a first content portion of the document and at least two choices of content, which may be styled, for a second content portion of the same document;

a label section which includes labels corresponding to choices of content, each label indicating to a server an allowable combination of content for the first content portion with content for the second content portion of the same

document, wherein the document is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the document and the second content portion of the same document.

Applicants respectfully submit that independent claim 23 is allowable for at least the reason that *Brid* does not disclose, teach, or suggest at least all of the claimed features above.

For example, *Brid* describes a device-independent template which "defines how to display information" or may be regarded as a content structure. See col. 2, lines 38-63 and col. 3, lines 22-41. The device independent template is adapted for a particular device, and this is regarded as a device-specific template. In the examples of Fig. 4 and 5, they show how the device-specific template for Fig. 4 does not call for a chart to be displayed, where the device-specific template for Fig. 5 does. Each of the figures do show the same representations of the data that is common to both. Accordingly, *Brid* fails to teach or suggest "a label section which includes labels corresponding to choices of content, each label indicating to a server an allowable combination of content for the first content portion with content for the second content portion of the same document, wherein the document is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the document and the second content portion of the same document," as recited in claim 23.

In contrast, the claimed subject matter describes a document having a first content portion and a second content portion. For the first content portion, at least two choices of content are defined which may be styled for the first content

portion. Likewise, for the second content portion, at least two choices of content are defined which may be styled for the second content portion. Therefore, for a requesting user, an approved combination of content for the first portion and the second portion is served to the requesting user when the document or web page is produced.

However, in *Brid*, there are no choices of content present. For example, *Brid* does not disclose producing a web page by incorporating an approved combination of content for a first content portion and a second content portion, where there are multiple choices of content available to be used in the first content portion and there are multiple choices of content available to be used in the second content portion, where an approved combination of a choice from the first portion and a choice from the second portion is what is used in the produced document. In contrast, *Brid* describes adapting a layout or template to a specific device implementation where some data elements may be omitted from the device-specific layout or template. Choices are not defined amongst alternative data elements that are representative of the same content.

In response to the statement in the final Office Action that *Brid* "does disclose labeling content choices approvable as to indicate to the server what choices of content from each portion of the web page are allowable for serving the entire web page (column 5, lines 54-67, with the defining of data elements to be displayed and the arranging of data elements on a layout seen as labeling an approved combination, since all of some of the content portions are served to the requesting user based on their display format," Applicants respectfully disagree

and iterate that *Brid* fails to disclose at least “a content defining section defining at least two choices of content for the document, which may be styled, for a first content portion of the document and at least two choices of content, which may be styled, for a second content portion of the same document,” as recited in claim 23. As explained above, *Brid* omits content portions from documents for a device-specific layout and does not define choices of content for a content portion of a document.

For at least these reasons, claim 23 is not anticipated by *Brid*. Therefore, the rejection of claim 23 should be overturned.

7. Applicants’ Claim 24

Dependent claim 24 (which depends from independent claim 23) is allowable as a matter of law for at least the reason that the dependent claim contains all the features of allowable independent claim 23. *See In re Fine*, 5 U.S.P.Q.2d 1596, 1600 (Fed. Cir. 1988).

Additionally and notwithstanding the foregoing allowability of claim 24, the dependent claims recites further features and/or combinations of features (as is apparent by examination of the claim itself) that are patentably distinct from the cited art of record. Hence, there are other reasons why the dependent claim is allowable.

B. Rejection of Claims under 35 U.S.C. § 103

Claims 20 and 22 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over *Brid* in view of *Lachhwani* (U.S. Patent Application Publication No. 2002/0116418 A1).

All of the claimed features of independent claim 18 are not taught and suggested by *Brid*, as previously discussed. Further, the cited art of *Lachhwani* fails to cure the deficiencies of the *Brid* reference in suggesting or teaching all of the claimed features in claims 18 or claims 20 & 22 (which depend from independent claims 18). Therefore, a *prima facie* case establishing an obviousness rejection by the proposed combination of *Brid* with *Lachhwani* has not been made, and the rejections of claims 20 & 22 should be overturned.

VIII. Conclusion

In summary, it is Applicants' position that Applicants' claims are patentable over the applied cited art references and that the rejection of these claims should be withdrawn. Appellant therefore respectfully requests that the Board of Appeals overturn the Examiner's rejection and allow Applicants' pending claims.

Respectfully submitted,

By:


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Claims Appendix under 37 C.F.R. § 41.37(c)(1)(viii)

The following are the claims that are involved in this Appeal.

1. A method of authoring a document to be served for rendering on a plurality of classes of device comprising:

defining at least two choices of content which may be styled for a first content portion of the document;

defining at least two choices of content which may be styled for a second content portion of the document; and

labelling the choices of content for a web page to indicate to a server approved combinations of content for the first content portion of the web page with content for the second content portion of the same web page, wherein the web page is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the web page and the second content portion of the same web page.

2. The method of claim 1 in which the step of labelling the choices of content to indicate approved combinations is performed manually by an author.

3. A method according to claim 1 or claim 2 which includes an additional step of arranging allowable choices into class sub-sets, each class sub-set including only those labelled choices which match properties of a class of devices on which a web document is to be rendered.

4. The method of claim 3 which comprises defining more than one class sub-set of the allowable choices.

5. The method of claim 1 which includes a further step comprising receiving properties of a device requesting a web document and selecting from a sub-class of combinations which includes a device requesting the document a set of content which matches the properties of the requesting device.

6. The method of claim 5 in which the properties comprise physical properties of the device.

7. The method of any one of claims 3 to 6 in which a step of grouping into sub-classes according to the properties of the device class comprises applying a set of rules to the content forming each combination in order to determine if the combination is allowable.

8. The method of claim 7 in which a rule which is used comprises checking that the combination of content for the first and second portions fits within a minimum and/or a maximum area available on all of the devices within the class for rendering the content portions.

9. The method of claim 7 or claim 8 in which a different rule which may be applied is to check if all of the content for the combination can be rendered by all of the defined devices within a class.

10. The method of any preceding claim in which the class of devices comprises PDA devices, or PCs or WAP enabled devices.

11. The method according to any preceding claim in which a web document which is authored comprises a web page, a portion of a web page or a set of web pages which are related to one another in some way.

12. The method of any preceding claim in which a choice of content is provided as a separate file or a sub-file of a single file.

13. The method of any preceding claim further comprising a step of providing content comprising authoring new content.

14. A method according to any preceding claim which includes a step of providing a preference to each approved combination indicating which combination should be used in preference to another combination should more than one combination be suitable for sending to the requesting device.

15. A method according to claim 14 in which the preference is to ensure that a largest size content is always used for the given property of the requesting device

16. A method of any one of claims 14 or claim 15 in which labels for the approved combinations are used to indicate the preference.

17. The method of any preceding claim which includes the step of transmitting to the device making the request for a web document which includes one of the approved combinations included in the class-subset containing the requesting device which is best suited to that device.

18. A system for authoring a document to be served for rendering on a plurality of classes of device comprising:

a content defining tool for defining at least two choices of content which may be styled, for a first content portion of the document and at least two choices of content, which may be styled, for a second content portion of the document; and

a labelling tool which permits an author to label the choices of content to indicate to a server allowable combinations of content for the first content portion with content for the second content portion of the same document, wherein the document is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the document and the second content portion of the same document.

19. The system of claim 18 in which the content defining tool comprises an editor which permits the author to define an identity and location of existing content choices and/or to author new content.

20. A system according to claim 18 or claim 19 in which the labelling tool is adapted to render automatically selected choices for the author or other user and request the author or user to indicate if the combination is approved.

21. The system of any one of claims 18 to 20 in which a sub-class selection tool is provided which arranges the allowable combination of choices into class sub-sets, each class sub-set including only those labelled choices which match properties of a class of devices on which a web document is to be rendered.

22. A system according to claim 20 in which the sub-class selection tool includes a device property agent which is adapted to retrieve properties of devices which form the class of devices for which the sub-class is based.

23. A data structure that is suitable for processing to produce a rendered document, the program comprising:

a content defining section defining at least two choices of content for the document, which may be styled, for a first content portion of the document and at least two choices of content, which may be styled, for a second content portion of the same document;

a label section which includes labels corresponding to choices of content, each label indicating to a server an allowable combination of content for the first content portion with content for the second content portion of the same document, wherein the document is produced for serving to a requesting user by incorporating an approved combination of content for the first content portion of the document and the second content portion of the same document.

24. The data structure of claim 23 in which a sub-class selection section which includes at least one defined class sub-set, each class sub-set including only those labelled choices which match properties of a class of devices on which a web document is to be rendered.

25-27. Canceled

Evidence Appendix under 37 C.F.R. § 41.37(c)(1)(ix)

There is no extrinsic evidence to be considered in this Appeal. Therefore, no evidence is presented in this Appendix.

Related Proceedings Appendix under 37 C.F.R. § 41.37(c)(1)(x)

There are no related proceedings to be considered in this Appeal.

Therefore, no such proceedings are identified in this Appendix.